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# **PRELIMINARY DRAFT**

## **No. 3091**

**PREPARED BY**  
**LEGISLATIVE SERVICES AGENCY**  
**2006 GENERAL ASSEMBLY**

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### **DIGEST**

**Citations Affected:** IC 20-26-9; IC 20-30-5-7.5.

**Synopsis:** Student nutrition and physical activity. Requires school boards to establish a coordinated school health advisory council to develop a local wellness policy that complies with certain federal requirements. Requires the department of education to provide information concerning health, nutrition, and physical activity. Establishes requirements applying to food items and beverage items that are available for sale to students outside the federal school meal programs, including a requirement that a certain percentage of the food and beverage items qualify as healthy. Provides that the requirements do not apply after school hours or to fundraisers. Requires daily physical activity for elementary school students in public schools, with certain exceptions. Allows a school to continue a vending machine contract in existence before the passage of this bill. Phases in the percentage of food and beverage items that must qualify as healthy.

**Effective:** July 1, 2006.



A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 20-26-9-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 18. (a) Before July 1, 2007, each school board shall establish a coordinated school health advisory council (referred to as "advisory council" in this section). The advisory council shall develop a local wellness policy that complies with the requirements of federal Public Law 108-265 and IC 5-22-15-24(c). The advisory council must hold at least one (1) hearing at which public testimony about the local wellness policy being developed is allowed.**

**(b) The school board shall appoint the members of the advisory council, who must include the following:**

- (1) Parents.**
- (2) Food service directors and staff.**
- (3) Students.**
- (4) Nutritionists or certified dietitians.**
- (5) Health care professionals.**
- (6) School board members.**
- (7) A school administrator.**
- (8) Representatives of interested community organizations.**

**However, a person who represents a food manufacturer or marketer or a person with a conflict of interest or a financial interest in selling food in schools may not serve on the advisory council.**

**(c) The school board shall adopt a school district policy on child nutrition and physical activity that takes into consideration recommendations made by the advisory council.**

**(d) The department shall, in consultation with the state department of health, provide technical assistance to the advisory councils, including providing information on health, nutrition, and physical activity, through educational materials and professional development opportunities. The department shall provide the**



1 information given to an advisory council under this subsection to  
 2 a school or parent upon request.

3 SECTION 2. IC 20-26-9-19 IS ADDED TO THE INDIANA CODE  
 4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 5 1, 2006]: Sec. 19. (a) This section does not apply to a food or  
 6 beverage item that is:

- 7 (1) part of a school lunch program or school breakfast  
 8 program;
- 9 (2) sold in an area that is not accessible to students;
- 10 (3) sold after normal school hours; or
- 11 (4) sold or distributed as part of a fundraiser conducted by  
 12 students, teachers, school groups, or parent groups, if the food  
 13 or beverage is not intended for student consumption during  
 14 the school day.

15 (b) A vending machine at an elementary school that dispenses  
 16 food or beverage items shall not be accessible to students.

17 (c) At least fifty percent (50%) of the food items available for  
 18 sale at a school or on the school grounds must qualify as healthy  
 19 food and at least fifty percent (50%) of the beverage items  
 20 available for sale at a school or on the school grounds must qualify  
 21 as healthy beverages. Food and beverage items are subject to the  
 22 following for the purposes of this subsection:

- 23 (1) The following do not qualify as healthy beverages:
  - 24 (A) Soft drinks, punch, iced tea, and coffee.
  - 25 (B) Fruit or vegetable based drinks that contain less than  
 26 fifty percent (50%) real fruit or vegetable juice or that  
 27 contain additional caloric sweeteners.
  - 28 (C) Except for low-fat and fat-free chocolate milk, drinks  
 29 that contain caffeine.
- 30 (2) The following qualify as healthy beverages:
  - 31 (A) Fruit or vegetable based drinks that contain at least  
 32 fifty percent (50%) real fruit or vegetable juice or that do  
 33 not contain additional caloric sweeteners.
  - 34 (B) Water and seltzer water that do not contain additional  
 35 caloric sweeteners.
  - 36 (C) Isotonic beverages.
  - 37 (D) Low-fat and fat-free milk, including chocolate milk,  
 38 soy milk, rice milk, and other similar dairy and nondairy  
 39 calcium fortified milks.
- 40 (3) Food items that meet all of the following standards are  
 41 considered healthy foods:
  - 42 (A) Not more than thirty percent (30%) of their total  
 43 calories are from fat.
  - 44 (B) Not more than ten percent (10%) of their total calories  
 45 are from saturated and trans fat.
  - 46 (C) Not more than thirty-five percent (35%) of their



weight is from sugars that do not occur naturally in fruits, vegetables, or dairy products.

(d) A food item available for sale at a school or on the school grounds shall not exceed the following portion limits:

(1) In the case of potato chips, crackers, popcorn, cereal, trail mixes, nuts, seeds, dried fruit, and jerky, either:

(A) one and seventy-five hundredths (1.75) ounces; or

(B) no portion limit applies if the food item contains not more than two hundred ten (210) calories.

(2) In the case of cookies and cereal bars, two (2) ounces.

(3) In the case of bakery items, including pastries, muffins, and donuts, three (3) ounces.

(4) In the case of frozen desserts, including ice cream, three (3) fluid ounces.

(5) In the case of nonfrozen yogurt, eight (8) ounces.

(6) In the case of entree items and side dish items, including french fries and onion rings, the food item available for sale may not exceed the portion of the same entree item or side dish item that is served as part of the school lunch program or school breakfast program.

(e) A beverage item available for sale at a school or on the school grounds shall not exceed twenty (20) ounces.

SECTION 3. IC 20-30-5-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7.5. (a) This section does not apply to:

(1) students who are in half-day kindergarten; or

(2) a student who has a medical condition that precludes participation in the daily physical activity provided under this section.

(b) Beginning in the 2006-2007 school year, the governing body of each school corporation shall provide daily physical activity for students in elementary school. The physical activity must be consistent with the curriculum and programs developed under IC 20-19-3-6 and may include the use of recess. On a day when there is inclement weather or unplanned circumstances have shortened the school day, the school corporation may provide physical activity alternatives or elect not to provide physical activity.

SECTION 4. [EFFECTIVE JULY 1, 2006] (a) IC 20-26-9-19, as added by this act, does not apply to a contract that:

(1) was executed before the effective date of this SECTION;

(2) takes effect not later than the effective date of this SECTION; and

(3) requires a governing body of a school corporation to allow the sale of:

(A) soft drinks and similar beverages; or



(B) food;  
with no or low nutritional value, as defined by the United States Department of Agriculture, from vending machines or other dispensing units during school hours.

However, the governing body may not renew a contract described in this SECTION and, after the contract expires, must comply with IC 20-26-9-19, as added by this act.

(b) This SECTION expires July 1, 2011.

SECTION 5. [EFFECTIVE JULY 1, 2006] (a) This SECTION does not apply to a food or beverage item that is:

- (1) part of a school lunch program or school breakfast program;
- (2) sold in an area that is not accessible to students;
- (3) sold after normal school hours; or
- (4) sold or distributed as part of a fundraiser conducted by students, teachers, school groups, or parent groups, if the food or beverage is not intended for student consumption during the school day.

(b) Notwithstanding IC 20-26-9-19(c), as added by this act, the minimum percentages of food items available for sale at a school or on the school grounds that must qualify as healthy food, and the minimum percentages of beverage items available for sale at a school or on the school grounds that must qualify as healthy beverages, are as follows:

- (1) Twenty percent (20%), beginning July 1, 2006, and ending June 30, 2007.
- (2) Thirty-five percent (35%), beginning July 1, 2007, and ending June 30, 2008.

(c) This SECTION expires July 1, 2008.

